



Kansas City, Missouri
Homicide Assessment Report

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As part of the Bureau of Justice Assistance (BJA) National Public Safety Partnership (PSP), a homicide investigations and prosecution training and assessment was conducted for the Kansas City, Missouri, Police Department (KCPD). The purpose of this effort was to provide the KCPD with best practices and strategies to reduce violent crime, conduct high-quality homicide investigations, and produce successful homicide prosecutions.

At the request of the KCPD and at BJA's direction, CNA engaged two subject experts (SEs) to perform this assessment—retired Homicide Detective John Skaggs from the Los Angeles Police Department and Deputy District Attorney John Colello from the Los Angeles County District Attorney's Office. From April 29 through May 1, 2019, SEs John Skaggs and John Colello traveled to Kansas City, Missouri, and provided an eight-hour Homicide Investigations and Prosecutions Best Practices presentation to KCPD homicide detectives, supervisors, and managers, along with prosecutors from the Jackson County Prosecutor's Office (JCPO) and the United States Attorney's Office (USAO) from the Western District of Missouri. During the subsequent two days, the team met with command staff, supervisors, detectives, and prosecutors. They toured the police department's facilities, reviewed active homicide investigation case files, engaged in roundtable discussions, and individually met with homicide investigators and prosecutors. In addition, the team reviewed crime data, policies, procedures, and other documents related to the KCPD's homicide investigative function.

It is clear that the KCPD and JCPO have a genuine commitment to the effective and successful investigation and prosecution of those responsible for the city's most violent crimes. During the team's visit, it was readily apparent that the investigators and prosecutors cared deeply about their responsibilities, worked extremely hard to solve homicides and successfully prosecute offenders, and were trying to make a positive difference in their communities. The assessment team was impressed that the KCPD already handles many aspects of homicide investigations in an outstanding manner. The team works well together, receives more training than most homicide detectives, and has an adequate supervisor-to-detective ratio. However, it was also clear that the KCPD needs to increase the number of homicide detectives and crime analysts, implement standardized report writing and case file organization, and provide appropriate incentives to recruit and retain qualified detective personnel.

Observations and Recommendations

As a result of the on-site assessment, the following observations and recommendations are offered to the KCPD PSP for consideration. The assessment team believes the following recommendations are critical for effective and successful homicide investigations and prosecutions:

- Increase homicide personnel by eight detectives (two additional detectives per squad), coupled with a qualified sworn or civilian crime analyst assigned to each squad, to ensure that detectives are assigned no more than four to five new homicides per year.
- Develop a two-week on-call rotation among eight detectives instead of six, minimizing the chance a detective will be assigned more than one new murder investigation during his or her on-call rotation.
- Implement a “Murder Book” concept with a standardized table of contents and reports, a chronology section, a singular follow-up report summarizing the overall investigation, a standardized protocol for forensic testing, and a standardized discovery process with JCPO.
- Implement a 90-Day Unsolved Murder Investigation Progress Report and an official supervisory review process of all open murder investigations.
- Eliminate the need for a suspect to initial or sign a *Miranda* waiver document and consider utilizing implied vs. expressed waivers.
 - If the KCPD moves forward with this, the JCPO should provide the KCPD with the appropriate training.
- Utilize *Perkins* operations and/or monitored and recorded environments.
- Sufficiently fund witness protection and relocation protocols (KCPD and the JCPO).
- Implement appropriate incentives to recruit and retain experienced and qualified detectives in the Homicide Division.

The PSP can provide follow-on TTA assistance to help implement these recommendations upon request. Additionally, PSP can provide the JCPO with an in-depth Prosecutors Assessment to review their policies and procedures if they wish to request one.

Duties Handled by KCPD Homicide Detectives

As of January 2018, KCPD homicide detectives are no longer assigned non-homicide cases (e.g., robberies, non-fatal shootings, aggravated assaults), with the exception of officer-involved shootings

(OIS) investigations. This is common among effective homicide squads across the country since homicide detectives are typically better trained and more experienced within detective ranks and are better equipped to effectively handle complex and sensitive OIS investigations.

The KCPD currently has four homicide squads. Each squad is staffed by six case-carrying detectives and a supervisor (a sergeant). In turn, a captain oversees the Homicide Division and reports to a major who commands the entire Violent Crimes Division. Each homicide squad is on-call for 14 days at a time. Unfortunately, it is not uncommon for an individual detective to be assigned several cases during the 14-day period. The KPCD also does not staff a “cold case” homicide squad.

Homicide Staffing

Kansas City experienced a four-year average of 133 murders per year between 2015 and 2018. There were 136 murders in 2018. The KCPD’s homicide clearance rate varies from 50 percent to 73 percent. Currently, there are 24 case-carrying detectives. If the cases were distributed evenly, each detective would be assigned 5.5 homicide cases per year. This caseload does *not* include the OIS investigations and unsolved cases from previous years. Nationally, best practices suggest that a homicide detective should *not* be assigned more than four or five new cases per year. Current homicide investigations are time consuming and complex, and they typically include voluminous telephone records, cellphone tower dumps, social media records, computer downloads, and forensic testing. These records and investigations often produce thousands of pages of documents that must be thoroughly analyzed, processed, and understood. The *significance* of phone and social media evidence, in the context of the overall investigation, is as critical because the raw data is overwhelming and meaningless. The analysis and understanding of this evidence can take dozens or even hundreds of hours. The ability to efficiently and effectively process this evidence is critical. Qualified crime analysts who are experts in phone and social media evidence, and who are assigned to homicide squads within their command, are essential to allow homicide detectives to handle other aspects of these complex investigations.

Recommendation: The assessment team recommends that the KCPD increase their personnel assigned to homicide by adding eight new detectives (two per squad) and a qualified crime analyst to each squad. Increasing homicide personnel would greatly improve the investigations, alleviate the burden of heavy caseloads, allow more time between fresh cases, and ultimately improve the KCPD’s homicide clearance rate. This will undoubtedly enhance their ability to get charges filed and cases successfully prosecuted. In turn, serious offenders would be removed from the community, enhancing public safety.

Case Assignment/Rotation

Currently, KCPD homicide detectives are assigned to one of four homicide squads. Each squad is responsible for handling all homicides and OIS investigations during the 14-day on-call period. During that 14-day period, it is not uncommon for a detective to be assigned multiple new investigations. One of the most critical aspects of solving murders is the amount of time *between* new cases. Quite simply, the more time between cases, the higher the solve rate. In discussions with KCPD detectives, it was clear that detectives feel the stress and burden of their workload and need additional time to work their homicide cases.

Recommendation: The KCPD should develop a more effective two-week rotation with eight detectives per squad instead of six. This will ensure the maximum time between cases for each detective and would minimize the chance a detective would be assigned more than one new murder investigation during his or her on-call rotation. This would undoubtedly enhance their ability to more effectively and thoroughly work cases, thereby increasing clearance rates.

Murder Case Packages/Murder Book

During the site visit, the assessment team reviewed homicide case packages, which were contained in an accordion-type file. Within the file were labeled folders with corresponding documents. Although the packages were neat and orderly, they lacked a table of contents, a singular follow-up or investigative summary report that detailed the material aspects of the investigation, and consistent assembly. Some detectives, but not all, used a checklist as a reminder of required materials.

A structured “Murder Book” concept would ensure standardized organization and reports, which is critical in managing homicide investigations and prosecutions. Countless hours of duplicating work or obtaining missing or forgotten discovery could be avoided or minimized, allowing both detectives and prosecutors to focus on their critical duties.

Organizing murder investigations based on a standardized protocol instead of the habit of an individual investigator would also promote efficiency and accountability. A three-ring binder system with a standard table of contents, a chronology section, and consistent organizational protocols would be more effective and efficient than the KCPD’s current case file organization. A singular follow-up report that is consistently updated as the investigation progresses would also serve as a filing document for the JCPO and would be the salient document in every Murder Book that details all material aspects of the case. This report would also easily identify the source documents and necessary witnesses to prove the case. All CDs and DVDs of witness interviews, photographs, and other digital evidence should be

properly labeled, identified, and tracked for discovery purposes. A standardized Murder Book can also be easily scanned and digitized for copying and sharing with the JCPO. With “Bates-stamping” (the act of numbering each page from the beginning to the end so that law enforcement and prosecutors can refer to any page by number and know they are referring to the same document) or any other page indexing system, both detectives and prosecutors would immediately know what discovery has been provided and what discovery is still outstanding. The JCPO wholeheartedly agreed that a structured Murder Book with standardized reports, consistent forensic testing, and properly labeled digital media evidence would equally benefit the KCPD *and* the JCPO.

Recommendation: The KCPD should implement a Murder Book concept with a standardized table of contents and reports, a chronology section, a singular follow-up report summarizing the overall investigation, a standardized protocol for forensic testing, and a standardized discovery process with the JCPO. The JCPO should work with the KCPD to formulate the standardized discovery process for this book if it has not already been completed. Standardized investigative files and organization would improve the investigations, alleviate the burden of voluminous discovery requests and copying, and ultimately improve the KCPD’s investigations and report writing. This would undoubtedly enhance the KCPD’s ability to get charges filed and cases successfully prosecuted. The SEs provided pictures and descriptions of this book during their training. An example standard table of contents was also provided.

90-Day Unsolved Investigation Progress Report

If a homicide is unsolved after 90 days, a case review report is critical. Like the singular follow-up report, it documents all material aspects of the case in summary form, details outstanding clues and additional work to be done (e.g., follow-up activities to be performed by the investigator, the status of any scientific examinations including DNA or ballistic evidence), and it helps the assigned investigator re-evaluate the case. In some cases, it reminds an investigator or supervisor that something was overlooked that needs further investigation. The report essentially summarizes the status of the case and what has been done to solve it in a single document. It also allows supervisors and command staff to readily understand the case and outstanding issues.

Once completed, the 90-day report must be approved by the detective’s immediate supervisor. At that time, the supervisor must meet with the detective to discuss the unsolved investigation. The purpose of the meeting is to learn whether all reasonable investigative steps have been taken to solve the case, what remains outstanding, and what the supervisor or department can do to assist with solving the case. After

the detective and supervisor have completed the meeting, the commanding officer of the detective bureau must review the report. An added benefit of the 90-day report is that when the case is reviewed years later by a cold-case squad (if the KCPD chooses to implement such a squad), or when a family member of the decedent calls to check on the status of the case, *any* detective can refer to this report and become knowledgeable about the investigation.

Recommendation: The KCPD should adopt a comprehensive 90-day progress report on all unsolved homicide investigations. After completing the report, the detective must meet with a supervisor to review the report, discuss the investigation in depth, and develop a plan for further investigative steps.

Miranda Waivers

Pursuant to policy, homicide detectives read suspects their *Miranda* rights and then ask them to initial, sign, and date a written form prior to questioning. Because detectives commonly video or audio record the entire *Miranda* admonition and interview, these extra steps of initialing and signing are unnecessary. Additionally, these written requirements exceed any federal mandate and are not required by Missouri law. These requirements have the potential to lessen the likelihood of obtaining a valid waiver and can unnecessarily cause an invocation of counsel or silence. All interviews, including the reading of the *Miranda* rights, are audio or video recorded; therefore, a complete record is made proving the reading and waiver of rights. In the assessment team's experience, many suspects feel uncomfortable signing their name on any official police document. Detectives explained they had an overall 50–80 percent waiver rate.¹ The major impact of this process is that if you cannot obtain a *Miranda* waiver, you cannot obtain an admission or confession, and a jury is deprived of critical evidence.

Moreover, a *Miranda* waiver can be expressed **or** implied. Carolina v. Butler (1979) 441 U.S. 369, 373; Berghuis v. Thompkins (2010) 560 U.S. 370, 384–388 state:

The prosecution...does not need to show that a waiver of *Miranda* rights was expressed. An “implicit waiver” of the “right to remain silent” is sufficient to admit a suspect's statement into evidence....Where the prosecution shows that a *Miranda* warning was given and that it was understood by the accused, an accused's uncoerced statement establishes an implied waiver of

¹ Detectives stated that the written forms caused approximately 10 percent of the suspects to invoke counsel or silence.

the right to remain silent....Thus, after giving a Miranda warning, police may interrogate a suspect who has neither invoked nor waived his or her Miranda rights.

As noted in previous cases, the “ready ability to obtain uncoerced confessions is not an evil but an unmitigated good. Without these confessions, crimes go unsolved and criminals unpunished.”²

The most successful homicide investigators have the ability to talk with people—witnesses, victims, and suspects. Confessions may occur, but admissions, lies, or false alibis can also be extremely compelling evidence of guilt. This powerful evidence can never be discovered if a suspect invokes silence or if an investigator cannot effectively interview or interrogate. Hence, any law, policy, or practice that prohibits or discourages implied *Miranda* waivers should be eliminated.

Recommendation: Assuming the entire waiver and interview is recorded, the KCPD should eliminate the practice of obtaining signed Miranda waivers. Implied waivers should also be considered. This will increase the likelihood of obtaining a Miranda waiver, decrease a suspect’s reluctance to cooperate, and increase the ability to successfully prosecute defendants. The JCPO is open to pursuing the use of implied waivers as long as officers are sufficiently trained on its use under Missouri law. If the KCPD moves forward with this recommendation, the JCPO should provide the KCPD with the appropriate training. The JCPO has already indicated their willingness to work with the KCPD on this training.

Investigative Tactics

When an officer has probable cause to make an arrest, yet potentially not enough evidence to file with the prosecutor’s office, a common investigative tactic is to use the legal ability to arrest and incarcerate the suspect. At that time, an undercover police officer or a citizen confidential informant (CI) is placed in the same environment with the suspect to act as a police agent. Known as a *Perkins* operation,³ this investigative tactic enhances many homicide investigations. Depending on the case, suspect, and overall circumstances, investigators may utilize undercover police officers or a civilian (commonly called a “*Perkins* Agent” or “PA”) to actively elicit statements from the suspect pre-attachment of the Sixth Amendment. With Missouri State Law taken into consideration related to the disclosure of CI’s identity, the KCPD may wish to use undercover officers instead of civilians, as they have done in other

² Montejo v. Louisiana (2009) 556 U.S. 778, 796 (citing McNeil v. Wisconsin (1996) 501 U.S. 171, 181)

³ Undercover operation based on the United States Supreme Court case of Illinois v. Perkins (1990) 496 US 292. In a Perkins operation, an Undercover Officer or Perkins Agent is fitted with a recording device or enters a recorded environment and engages a target in conversation at the request of law enforcement to gain information regarding criminal activity.

environments. To be effective, these operations require careful planning and the creation of a realistic scenario in which the suspect does not think he or she is in a recorded environment. These operations must be actively monitored, and the conversations must be captured in their entirety with audio or video recording equipment that cannot be detected by the suspect. When successful, there is seldom more compelling evidence in a homicide prosecution than a *Perkins* operation in which the defendant himself acts out the crime, discusses details that only the killer would know, or brags about it to a person he believes is just a cellmate or fellow criminal.

The KCPD should consider investing in recording equipment, implementing a *Perkins* operation protocol, developing effective civilian *Perkins* Agents, and training police officers to work in a believable undercover capacity to elicit incriminating statements in homicide investigations. If a *Perkins* operation is not feasible, monitored environments such as the back of a police car, an interview room at the precinct, or an area of the precinct in which two suspects or their loved ones can talk even briefly could yield highly probative admissions.

Recommendation: KCPD investigators should utilize Perkins Agents (law enforcement or civilian) when appropriate to elicit incriminating information from suspects before the Sixth Amendment has attached. If Perkins operations cannot be used, investigators should place suspects in monitored environments to gather potentially incriminating evidence. The JCPO should explore this option with the KCPD to ensure that it does not violate any local or state laws.

Witness Protection and Relocation

Based on interviews, the assessment team learned that no true witness protection or relocation program exists at the state or county level. Instead, individual KCPD investigators have used their own money to secure transportation for the witness to leave the area or temporarily stay in hotels. This lack of protocol and sufficient funding is not a recommended practice. Investigators and prosecutors cannot expect witnesses to risk their lives by cooperating and testifying without reasonable and relatively basic protection protocols. As such, three basic principles of witness cooperation and protection apply: (1) cases usually cannot be proved without witnesses, (2) criminal justice professionals have a duty to protect those who help them, and (3) criminal justice professionals have a duty to present the best possible case to secure convictions and appropriate sentences for the protection of their communities.

The JCPO and the State of Missouri must develop a formal witness protection and relocation program. The program needs sufficient funding to be effective and successful.

In California, a formal Witness Relocation and Assistance Program was established in 1997 pursuant to Penal Code Sections 14020-14033. This program allows investigators and prosecutors to relocate witnesses for their safety. The program also allows reimbursement for the following: (1) armed protection by law enforcement, (2) physical relocation to a safe location, (3) housing expenses, (4) transportation and storage of possessions, (5) basic living expenses (e.g., food, utilities, health care, and incidentals), and (6) new identity costs. Most importantly, the program is annually funded with millions of dollars.

Recommendation: State and county witness protection and relocation protocols must be implemented and sufficiently funded. The SEs provided examples of funding, such as using asset forfeiture funds or community donations. The SEs stressed the importance of the KCPD and JCPO, as well as law enforcement departments in other large cities in Missouri, petitioning for an official Witness Relocation Program. Additional TTA on this topic can be provided through the PSP by SE Steve Siegel or AEquitas if requested.

Recruitment Incentives

The only real incentives to become and remain a detective appear to be better duty hours, more days-off, and wearing “soft clothes” instead of a patrol uniform. If a detective promotes to the rank of sergeant, he or she is reassigned back to patrol. As a result, valuable experience needed to investigate difficult homicides is lost, investigations suffer, detectives lose touch with witnesses, and court proceedings that can occur one to three years later are unnecessarily more difficult. Detectives are also the same rank and paygrade as a patrol officer, though they have greater responsibilities and a higher workload. These detectives are often consulted for their expertise by personnel working patrol, yet they make equal pay.

Recommendation: The KCPD should consider a pay incentive for those working homicide. When they have a fully trained and highly productive homicide detective, every effort should be made to allow the detective to promote to the rank of sergeant and remain in a detective assignment where he or she can continue to provide expertise and leadership in the detective squad. Having experienced detectives will increase homicide clearance rates and will undoubtedly enhance the KCPD’s ability to get charges filed and cases successfully prosecuted. In turn, serious offenders would be removed from the community, enhancing public safety.

Conclusion

The assessment team was encouraged by the dedication and commitment that the detectives and prosecutors have for their departments and community. It was clear that they work tirelessly on the heavy caseloads they carry. The team works well together, receives more training than most homicide detectives, and has an adequate supervisor-to-detective ratio. However, it was also clear that the KCPD needs to increase the number of homicide detectives and crime analysts, implement standardized report writing and case file organization, and provide appropriate incentives to recruit and retain qualified detective personnel.

To successfully investigate and prosecute violent crime, there must be a genuine commitment at all levels of government—legislative, judicial, and executive. There must also be sufficient personnel, funding, equipment, and training. Police investigators and prosecutors need each other to be successful. Very simply, good cops with sufficient time conduct good investigations, and effective prosecutors successfully prosecute criminals based on those thorough investigations. Murders, especially street-level murders, can be extremely difficult to investigate and prosecute. Sound investigative practices and aggressive prosecution of violent offenders increase clearance rates and achieve greater justice.